REMARKS

Summary of the Office Action

Claim 2 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

Claims 1-2 and 7-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Robinson (U.S. Patent No. 7,072,846) (hereinafter "Robinson") in view of Jacobi et al. (U.S. Pre-Grant Publication No. 2006/0195362) (hereinafter "Jacobi").

Claims 3 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Robinson in view of Jacobi and further in view of Seto et al. (U.S. Publication No. 2002/0041692) (hereinafter "Seto").

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Robinson in view of Jacobi and in view of Ward et al. (U.S. Patent No. 6,526,411) (hereinafter "Ward").

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Robinson in view of Jacobi and further in view of Cluts (U.S. Patent No. 5,616,876) (hereinafter "Cluts").

Summary of the Response to the Office Action

Applicants have amended claim 2 to differently describe embodiments of the disclosure of the instant application's specification and/or to improve the form of the claims. Accordingly, claims 1-8 remain currently pending for consideration.

Rejection under 35 U.S.C. § 112, second paragraph

Claim 2 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicants have amended claim 2 in accordance with helpful suggestions provided by the Examiner at page 2, section 3 of the Office Action. Accordingly, Applicants respectfully submit that claim 2, as amended, fully complies with the requirements of 35 U.S.C. § 112, second paragraph. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 112, second paragraph be withdrawn.

Rejections under 35 U.S.C. § 103(a)

Claims 1-2 and 7-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Robinson in view of Jacobi. Claims 3 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Robinson in view of Jacobi and further in view of Seto. Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Robinson in view of Jacobi and further in view of Ward. Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Robinson in view of Jacobi and further in view of Cluts. These rejections are respectfully traversed for at least the following reasons.

Applicants respectfully submit that neither of Robinson and Jacobi, whether taken singly or combined, teach or suggest the combination of features described in independent claim 1 of the instant application including at least "stimulation coefficients calculated by dividing the similarities of the pieces of selected music by the played frequencies of the pieces of selected music."

The Office Action asserts, in section 5, that this feature is taught by Robinson and Jacobi, in that Robinson allegedly "teaches using played frequencies as a variable to determine

popularity." Jacobi is then applied as allegedly teaching "dividing a degree of similarity between two items by a variable indicating popularity (number of times purchased, paragraphs [0082] – [0084]).

Applicants respectfully traverse such interpretations, however, at least because Jacobi merely discloses a commonality index (CI) value which indicates a ratio of customers who bought both item A and item B in paragraphs [0082] – [0084].

Specifically, Applicants respectfully submit that Jacobi merely teaches dividing the number of customers N_{common} who bought item A and item B by sqrt (number of customers N_A who bought item A times the number of customers N_B who bought item B) for calculating the CI value. Applicants respectfully submit that N_{common} does not correspond to degree of similarity as well as sqrt (N_A x N_B) does not correspond to variable indicating popularity.

Therefore, Applicants respectfully submit that the commonality index value does not correspond to the stimulation coefficients as described in independent claim 1 of the instant application. Independent claims 7 and 8 include similar features as independent claim 1 in this regard. Accordingly, similar arguments as asserted above with regard to independent claim 1 of the instant application also apply to independent claims 7 and 8.

As a result, for at least the foregoing reasons, Applicants respectfully submit that neither of Robinson and Jacobi, whether taken singly or combined, teach or suggest the combinations of features described in independent claims 1, 7 and 8, respectively, of the instant application including at least "stimulation coefficients calculated by dividing the similarities of the pieces of selected music by the played frequencies of the pieces of selected music."

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. § 103(a) should be withdrawn because neither of Robinson and Jacobi, whether taken singly or combined, teach or suggest each feature of independent claim 1, 7 or 8. MPEP § 2143.03 instructs that "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974)."

Furthermore, Applicants respectfully assert that dependent claims 2-6 are allowable at least because of their dependence from claim 1 and the reasons set forth above. The additionally applied reference to Seto, with regard to dependent claims 3 and 5, fails the cure the deficiencies of Robinson and Jacobi, as discussed above. The additionally applied reference to Ward, with regard to dependent claim 4, fails the cure the deficiencies of Robinson and Jacobi, as discussed above. The additionally applied reference to Cluts, with regard to dependent claim 6, fails the cure the deficiencies of Robinson and Jacobi, as discussed above.

CONCLUSION

In view of the foregoing discussion, Applicants respectfully request the entry of the amendments to place the application in clear condition for allowance or, in the alternative, in better form for appeal. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including

any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.

This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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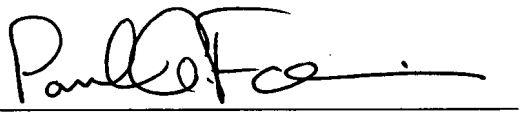
Dated: April 27, 2007 By: 

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